

## Message Text

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ORIGIN L-01

INFO OCT-01 SS-14 ISO-00 EB-03 IO-03 EUR-08 SSO-00 INR-05

INRE-00 SP-02 CIAE-00 NSC-05 NSCE-00 TRSE-00 /042 R

DRAFTED BY L:MBFELDMAN

APPROVED BY L:MBFELDMAN

L/EB - SBOND

EB/IFD/OIA - ECONSTABLE

IO/CMD - ELBRUCE

EUR/CE - RCASAGRANDE

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FM SECSTATE WASHDC

TO AMEMBASSY BONN IMMEDIATE

USMISSION GENEVA IMMEDIATE

INFO USMISSION USUN NEW YORK IMMEDIATE

USMISSION EC BRUSSELS IMMEDIATE

USMISSION OECD PARIS IMMEDIATE

AMEMBASSY ROME IMMEDIATE

AMEMBASSY THE HAGUE IMMEDIATE

AMEMBASSY PARIS IMMEDIATE

AMEMBASSY LONDON IMMEDIATE

AMEMBASSY TOKYO IMMEDIATE

AMEMBASSY OTTAWA IMMEDIATE

C O N F I D E N T I A L STATE 176665

LIMDIS PASS AMBASSADOR MYERSON, GENEVA

E.O. 11652: N/A

TAGS: EINV, PFOR, PGOV, UN, ECOSOC

SUBJECT: ECOSOC: U.S. PROPOSAL FOR INTERNATIONAL AGREE-  
MENT ON ILLICIT PAYMENTS

REF. BONN 11984

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1. DEPARTMENT IS VERY MUCH CONCERNED AT GERMAN PROPOSAL REFTEL WHICH COULD PROVIDE A RALLYING POINT FOR THOSE GOVERNMENTS WHO FOR DIVERSE REASONS WISH TO AVOID EFFECTIVE INTERNATIONAL ACTION ON BRIBERY PROBLEM AND THEREFORE HOPE TO FRUSTRATE U.S. INITIATIVE. DANGER OF GERMAN STUDY PROPOSAL IS THAT IT GIVES APPEARANCE OF CONCERN ABOUT THE PROBLEM AND CONFORMS TO STEP-BY-STEP APPROACH GENERALLY FAVORED BY WEO'S IN ECONOMIC MATTERS. HOWEVER, THERE CAN BE LITTLE DOUBT THAT PURPOSE AND EFFECT OF THIS PROPOSAL WOULD BE TO TAKE THE STEAM OUT OF U.S. PROPOSAL FOR URGENT ACTION ON INTERNATIONAL TREATY AND TO EMBROIL UN IN STUDY WITHOUT END OF THESE ISSUES. ACCORDINGLY, WE NEED TO MAKE EVERY EFFORT TO DISCOURAGE THIS IDEA AND TO PERSUADE FRG NOT TO PUSH IT.

2. FOR AMBASSADOR MYERSON: WE BELIEVE YOU SHOULD CONTINUE PRESENT STRATEGY OF BUILDING SUPPORT FOR U.S. PROPOSAL AMONG LDC'S AND SUCH INTERESTED WEO'S AS ITALY, NETHERLANDS, NORWAY, JAPAN, CANADA, UK AND GREECE. WE RECOGNIZE THE KEY TO SUCCESS MAY WELL LIE IN OVERCOMING LDC ANXIETY THAT THIS MAY BE U.S. MANEUVER TO DOWNGRADE WORK ON CODE OF CONDUCT IN TNC COMMISSION. ULTIMATELY ISSUE MAY TURN ON WHETHER SUCH COUNTRIES AS IRAN AND NIGERIA ARE REALLY INTERESTED IN REFORM AND CAN BE CONVINCED OF U.S. SINCERITY. IN THIS REGARD YOU CAN EMPHASIZE SUBSTANTIAL UNILATERAL MEASURES THAT ARE BEING TAKEN BY USG AND POINT OUT THAT COOPERATION OF ALL COUNTRIES WILL BE NECESSARY FOR EFFECTIVE REFORM AND THAT AN INTERNATIONAL TREATY IS THE BEST MEANS OF ASSURING THIS RESULT. YOU SHOULD ALSO MAKE ALL APPROPRIATE EFFORTS TO PERSUADE EC-9 NOT TO TAKE A COMMUNITY POSITION ON THIS QUESTION. THE COMMISSION HAS SAID THIS IS A MATTER FOR NATIONAL LEGISLATION NOT WITHIN THE COMMITTEE'S COMPETENCE. YOU SHOULD INDICATE TO ALL CONCERNED THAT U.S. CANNOT SUPPORT A STUDY PROPOSAL WHICH WOULD BE WIDELY PERCEIVED DOMESTICALLY AND INTERNATIONALLY AS A SUBSTITUTE FOR ACTION. THE U.S. HAS ALREADY TAKEN INFORMAL SURVEY OF NATIONAL LEGISLATION IN THIS FIELD AND IS CONVINCED A DETAILED STUDY OF NATIONAL LEGISLATION WOULD SERVE NO PURPOSE. ALMOST ALL COUNTRIES HAVE LEGISLATION PROHIBITING BRIBERY OF GOVERNMENT OFFICIALS IN ONE FORM

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OR ANOTHER. THERE IS NO NEED, AND IT WOULD BE ALMOST IMPOSSIBLE, TO HARMONIZE NATIONAL CRIMINAL LEGISLATION OF THIS CHARACTER. ALL THAT IS NEEDED IN THIS RESPECT ARE TREATY COMMITMENTS TO ESTABLISH APPROPRIATE CRIMINAL PENALTIES FOR THE GENERAL CATEGORIES OF OFFENSES DEFINED. ON THE OTHER HAND, THERE IS VERY LITTLE NATIONAL LEGISLATION DEALING WITH THE REGULATION OF AGENTS IN THE CONTEXT OF GOVERNMENT PROCUREMENT OR REQUIRING THE DISCLOSURE

OF PAYMENTS MADE IN CONNECTION WITH SUCH TRANSACTIONS. ONE OF THE MAIN TASKS OF THE DRAFTING GROUP PROPOSED BY THE U.S. WOULD BE TO ESTABLISH BY AGREEMENT THE MEASURES THAT GOVERNMENTS ARE PREPARED TO TAKE OF THIS KIND. IN THIS CONNECTION, YOU MAY ASSURE FRG DEL THAT U.S. FAVORS A PREPARATORY COMMITTEE COMPOSED OF GOVERNMENTAL REPRESENTATIVES.

3. FOR BONN: YOU SHOULD CONTACT VON DEWITZ AND OTHER FRG OFFICIALS AS NECESSARY TO EXPRESS OUR APPRECIATION THAT THE FRG IS TAKING A FURTHER HARD LOOK AT THIS PROBLEM. YOU MAY INDICATE OUR AWARENESS THE FRG IS NOT YET AS PERSUADED AS THE USG OF THE NEED FOR AND THE FEASIBILITY OF EFFECTIVE INTERNATIONAL ACTION IN THIS FIELD. HOWEVER, YOU SHOULD NOTE THAT WHILE WE WOULD

WARMLY WELCOME FRG SUPPORT FOR THE U.S. PROPOSAL AND ARE, OF COURSE, PREPARED TO CONSIDER MODIFICATIONS OF IT THAT DO NOT CHANGE ITS BASIC THRUST, WE WOULD HOPE THAT IF THE FRG IS UNABLE TO SUPPORT THE U.S. IT WOULD AT LEAST NOT OPPOSE OUR INITIATIVE. YOU SHOULD THEN INDICATE THAT WE WOULD NOT BE ABLE TO SUPPORT AN AMENDMENT TO OUR PROPOSAL THAT SUBSTITUTED A STUDY OF NATIONAL LEGISLATION FOR A NEGOTIATION OF AN INTERNATIONAL AGREEMENT. SUCH A PROPOSAL MIGHT APPEAL TO SOME AS THE BEST TACTIC FOR FRUSTRATING THE U.S. INITIATIVE AND WE WOULD STRONGLY OPPOSE IT AS SUCH. ACCORDINGLY, WE ASK THE FRG, IF IT CANNOT SUPPORT THE U.S. PROPOSAL, TO REMAIN NEUTRAL AND NOT TO INTRODUCE A COMPETING PROPOSAL OF ITS OWN WHICH IS NOT COMPATIBLE WITH OURS. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** BRIBERY, CORRUPTION, PROPOSALS (BID), INTERGOVERNMENTAL COOPERATION, MULTINATIONAL CORPORATIONS, GOVERNMENT REACTIONS, POPULAR SUPPORT  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 16 JUL 1976  
**Decaption Date:** 28 MAY 2004  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ShawDG  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976STATE176665  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** MBFELDMAN  
**Enclosure:** DG ALTERED  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D760275-0399  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
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**Line Count:** 145  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN L  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** LIMDIS  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** LIMDIS  
**Reference:** 76 BONN 11984  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ShawDG  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 06 APR 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <06 APR 2004 by BoyleJA>; APPROVED <04 AUG 2004 by ShawDG>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** ECOSOC: U.S. PROPOSAL FOR INTERNATIONAL AGREE- MENT ON ILLICIT PAYMENTS  
**TAGS:** EINV, PFOR, PGOV, GE, UN, ECOSOC  
**To:** BONN GENEVA  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006